

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

DAVID FREEMAN,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action Number
	)	2:06CV122-MHT-WC
RICHARD F. ALLEN,	)	
Commissioner of the Alabama	)	
Department of Corrections,	)	
	)	
Respondent.	)	

**THIRD MOTION FOR ENLARGEMENT OF TIME**

Comes now Respondent, by and through Troy King, the Attorney General of the State of Alabama, and on behalf of Respondent Richard Allen, respectfully moves this Honorable Court for an enlargement of seven (7) days, until July 12, 2007, within which to file his responsive brief to the procedural default issues and the merits. As grounds in support of this motion, Respondent offers the following:

1. This is a federal habeas corpus petition challenging Smith's capital murder conviction and sentence of death.
2. Undersigned counsel also represents the State in 27 other capital murder trials, direct appeals, and post-conviction proceedings. Notable among these cases is Michael Lynn

Sale, (CR-05-1447), in which undersigned counsel filed a direct appeal brief before the Alabama Court of Criminal Appeals on July 3, 2007, and David Lee Roberts (USDCT #6:04-cv-02661-CLS-HGD (N.D.)), in which undersigned counsel is scheduled to file a response to petitioner's objections to the magistrate judge's report and recommendation on July 9, 2007.

3. Though Counsel for the State has worked diligently on this case, he will be unable to prepare an adequate brief by this Court's deadline. Petitioner's Brief On The Merits And In Opposition To Respondent's Brief On Procedural Default is 217 pages in length. Given the level of detail that will be necessary for a response, and undersigned counsel's lack of familiarity with many of the issues in this case, Counsel needs an additional seven (7) days to insure that the brief meets this Courts standards while attending to counsel's other obligations.
4. The interests of justice and fairness and this Court's judicial function will best be served by granting the requested

enlargement. Likewise, Freeman will not be prejudiced if the request for enlargement is granted.

WHEREFORE, for the foregoing reasons, Respondent moves this Court for an enlargement of seven (7) days within which to file its procedural default brief, thus making the State's Answer due on or before July 12, 2007.

Respectfully submitted,

Troy King  
*Attorney General*

/s/ Michael A. Nunnelley  
Michael A. Nunnelley  
*Assistant Attorney General*

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 5, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: **Keir M. Weyble, Christopher Seeds, and Robin Konrad.**

/s/ Michael A. Nunnelley  
Michael A. Nunnelley  
*Assistant Attorney General*  
*Counsel for Respondent*

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July 5, 2007